

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CEDAR RAPIDS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSEPH MERCIL,

Defendant.

No. 18-CR-80 CJW

**ORDER REGARDING  
MAGISTRATE'S REPORT AND  
RECOMMENDATION  
CONCERNING DEFENDANT'S  
GUILTY PLEA**

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***I. INTRODUCTION AND BACKGROUND***

On August 21, 2018, an Indictment was filed against defendant charging defendant in count three of the Indictment. On October 22, 2018, defendant appeared before United States Magistrate Judge Mark Roberts and entered a plea of guilty to count three of the Indictment. On October 22, 2018, Judge Roberts filed a Report and Recommendation in which he recommended that defendant's guilty plea be accepted. On October 23, 2018, defendant filed a waiver of objections to Report and Recommendation. The Court, therefore, undertakes the necessary review of Judge Roberts' recommendation to accept defendant's plea in this case.

***II. ANALYSIS***

Pursuant to statute, this Court's standard of review for a magistrate judge's report and recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.

28 U.S.C. § 636(b)(1)(C). Where no objection has been made to a magistrate's report and recommendation, the Court reviews the magistrate's report and recommendation

for clear error. 28 U.S.C. § 636(b)(1)(A). Similarly, Federal Rule of Criminal Procedure 59(b) provides for review of a magistrate judge's report and recommendation on dispositive motions, where objections are made, as follows:

The district judge must consider de novo any objection to the magistrate judge's recommendation. The district judge may accept, reject, or modify the recommendation, receive further evidence, or resubmit the matter to the magistrate judge with instructions.

FED. R. CRIM. P. 59(b)(3).<sup>1</sup>

In this case, defendant filed a waiver of objections to report and recommendation, and it appears to the Court upon review of Judge Roberts' findings and conclusions that the findings and conclusions are not clearly erroneous. Therefore, the Court **ACCEPTS** Judge Roberts' Report and Recommendation of October 22, 2018, and **ACCEPTS** defendant's plea of guilty in this case to count three of the Indictment.

**IT IS SO ORDERED** this 24th day of October, 2018.



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C.J. Williams  
United States District Judge  
Northern District of Iowa

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<sup>1</sup> *United States v. Cortez-Hernandez*, 673 F. App'x 587, 590-91 (8th Cir. 2016) (per curiam), suggests that a defendant may have the right to de novo review of a magistrate judge's recommendation to accept a plea of guilty even if no objection is filed.